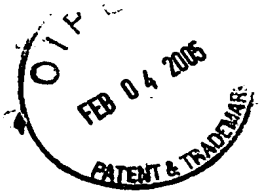

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:		Confirmation No.:	9197
	Carol L. Thompson *et al.*	Group Art Unit:	2124
Serial No.:	09/718,059	Examiner:	Shrader, Lawrence J.
Filed:	November 21, 2000	Docket No.	10001152-1

For: **METHOD AND APPARATUS FOR VARYING THE LEVEL OF CORRECTNESS CHECKS EXECUTED WHEN PERFORMING CORRECTNESS CHECKS OPPORTUNISTICALLY USING SPARE INSTRUCTION SLOTS**

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop: Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Examiner has made particular statements in the Notice of Allowability mailed December 30, 2004 regarding a primary reason for allowance of the subject matter of application claims 1 - 16, which may be viewed as an over-simplification, and if taken out of context, could give rise to an improper interpretation of the claims. For at least this reason, Applicants provide the following comments to ensure proper interpretation of the claims.

Applicants' apparatus claims are directed to a computer for performing correctness checks opportunistically. The computer includes first, second, third, and fourth logic portions configured to direct the computer to receive, evaluate, determine, and opportunistically insert, respectively, to transform an initial set of instructions into a final set of instructions. Specifically, the fourth logic directs the computer to insert said one or more instructions associated with a correctness check function into spare instruction slots when enough spare instruction slots exist in the initial instruction schedule to accommodate said one or more instructions in the final schedule of instructions. When enough spare instruction slots do not exist in the initial instruction schedule to

accommodate said one or more instructions, the fourth logic determines whether the number of additional instruction slots is large enough to accommodate said one or more instructions, when the fourth logic determines that the number of additional instruction slots is large enough to accommodate said one or more instructions, the fourth logic inserts said one or more instructions into the additional instruction slots.

One embodiment is directed to a method for performing correctness checks opportunistically. The method comprises "inserting said one or more instructions . . . to create a final schedule of instructions, wherein when enough spare instruction slots do not exist in the initial instruction schedule to accommodate said one or more instructions, determining whether the number of additional instruction slots is large enough to accommodate said one or more instructions; and when a determination is made that the number of additional instruction slots is large enough to accommodate said one or more instructions, inserting said one or more instructions into the additional instruction slots."

Concerning claims 1, 8, and 13 the Notice of Allowability mailed December 30, 2004 states:

> "The following is an examiner's statement of reasons for allowance: Prior art of record, taken singly and/or in combination, does not teach or suggest a computer, method, or program in independent claims 1, 8, and 13 respectively. The following claimed features are not taught or suggested by the prior art of record: The cited prior art taken alone or in combination fails to teach a spare slot into which instructions associated with a correctness function can be inserted, and a determination of a number of additional instruction slots that may be added to the initial instruction schedule without exceeding a run-time performance cost tolerance level."

First, the scope and validity of each claim (whether in independent, dependent, or multiple dependent form) should be determined based upon the entire combination of elements/features/steps in each claim, as opposed to only the particular feature or features pointed out by the Examiner absent from the cited art. Applicants submit that all claims do not recite "a spare slot into which instructions associated with a correctness function can be inserted, and a determination of a number of additional instruction slots that may be added to the initial instruction schedule without exceeding a run-time performance cost tolerance level," as cited by the Examiner. Thus, all claims should not be interpreted to

include these features. For example, Applicants' method for performing correctness checks opportunistically does not recite "a spare slot into which instructions associated with a correctness function can be inserted, and a determination of a number of additional instruction slots that may be added to the initial instruction schedule without exceeding a run-time performance cost tolerance level." Accordingly, at least Applicants' method for performing correctness checks opportunistically should not be interpreted to include "a spare slot into which instructions associated with a correctness function can be inserted, and a determination of a number of additional instruction slots that may be added to the initial instruction schedule without exceeding a run-time performance cost tolerance level."

Also, in accordance with 35 U.S.C. Section 282, "[e]ach claim of a patent (whether in independent, dependent, or multiple dependent form) shall be presumed valid independently of the validity of other claims; dependent or multiple dependent claims shall be presumed valid even though dependent upon an invalid claim." Thus, claims that were not addressed by the Examiner in the Reasons for Allowance should not rise or fall, when construed in terms of validity, with their respective independent claims, but instead should be construed independently of their respective independent claims.

Respectfully submitted,

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HORSTEMEYER & RISLEY, L.L.P.

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CERTIFIED MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as "First Class Mail," in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 2-1-05

John Campbell
Signature